



FSO-213-06

# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

L. Preston Bryant, Jr.  
Secretary of Natural Resources

806 Westwood Office Park  
Fredericksburg, Virginia 22401  
(540) 899-4600 Fax (540) 899-4647  
[www.deq.virginia.gov](http://www.deq.virginia.gov)

David K. Paylor  
Director

Jeffery A. Steers  
Regional Director

### STATE AIR POLLUTION CONTROL BOARD ORDER BY CONSENT ISSUED TO RUBBLE BEE RECYCLING DEQ Air Facility Registration No. 41048

#### SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1307 D, § 10.1-1309 and 10.1-1316 C, between the State Air Pollution Control Board ("SAPCB") and Rubble Bee Recycling for the purpose of resolving certain alleged violations of the Air Pollution Control Law and/or regulations as specified in Section C of this Order.

#### SECTION B: Definitions

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.
6. "Rubble Bee" means Rubble Bee Recycling, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the Rowe Concrete Plant – Stafford Plant located at 169 Wyche Road, Stafford County, Virginia.
8. "FSO" means the Fredericksburg Satellite Office of the Northern Virginia Regional Office of DEQ, located in Fredericksburg, Virginia.
9. "Air Operating Permit" means the Stationary Source Permit To Construct and Operate, issued May 19, 2006, to Rubble Bee Recycling prescribing conditions for the construction and operation of the portable concrete crusher and portable screen.
10. "Order" means this document, also known as a Consent Order.
11. "VAC" means Virginia Administrative Code.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Rubble Bee owns and operates a portable concrete crusher (Extex Mega Bite Crusher Model C-12) and portable screen (Extex Turbo Trac Screener) at the Facility.
2. The DEQ has evidence to indicate that Rubble Bee has violated 9 VAC 5-50-90 (Standard for fugitive dust/emissions) by failing to utilize sufficient dust suppression methods (e.g., wet suppression) during the operation of the portable concrete crusher and portable screen at the Facility.
3. On March 23<sup>rd</sup> and 29<sup>th</sup>, 2006, DEQ FSO staff conducted site inspections at the Facility. During the March 23, 2006, site visit, DEQ observed a concrete crushing activity in operation creating excessive fugitive dust at the site. It appeared that the activity was being conducted using insufficient dust suppression methods (e.g., no wet suppression).
4. On May 19, 2006, DEQ issued Rubble Bee an Air Operating Permit for the construction and operation of a portable concrete crusher. Condition 2 of the Air Operating Permit requires that particulate matter emissions from the Extex Mega Bite Crusher Model C-12 and Extex Turbo Trac Screener process be controlled by wet suppression. The wet suppression system shall be operated anytime the crusher and screen are operating. The Air Operating Permit also requires a visible emission evaluation (VEE) while this equipment is in operation.



5. DEQ issued a Notice of Violation (NOV) to Rubble Bee on August 30, 2006 for the above-referenced violation.
6. During a meeting on September 27, 2006, with DEQ, Rubble Bee's Mr. Keith Lare explained that wet suppression is not normally required as the material to be processed is mostly "washout" concrete which is the waste or left over concrete discharged by a concrete truck after completing a pour. The mixer driver typically "soups" or wets up the concrete to keep this sometimes hydrating concrete from sticking to its drum blades and causing mix and weight problems. Mr. Lare explained that any significant dust is created by the rubber tire loader traffic from the limestone parking lot while stockpiling the finished product.
7. On November 15, 2006, DEQ observed the VEE. A one-hour VEE was conducted on both the crusher and screening equipment. There were no recordings of greater than zero opacity for each individual reading of the crusher and none greater than five percent opacity for any one reading on the screener. DEQ did not observe any significant dust emissions from vehicular traffic. There was some observed opacity from the crusher conveyor to the screener hopper box. DEQ advised Mr. Lare to monitor that and apply adequate moisture where deemed appropriate (i.e., at material stockpiles and/or via water spray nozzles affixed to the top of crusher conveyor). There were no significant dust emissions resulting from vehicular traffic.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1307 D, §10.1-1309 and § 10.1-1316 C, the Board orders Rubble Bee Recycling, and Rubble Bee Recycling voluntarily agrees, to pay a civil charge in the amount of nine hundred sixty-eight dollars (\$968.00) within 30 days of the effective date of the Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Either in the transmittal letter or as a notation on the check, Rubble Bee Recycling shall indicate that this payment is submitted pursuant to this Consent Order and shall include the Federal Identification Number for Rubble Bee Recycling.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Rubble Bee Recycling for good cause shown by Rubble Bee Recycling, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Rubble Bee Recycling by DEQ on August 30, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities, whether or not arising out of the same or similar facts, for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Rubble Bee Recycling admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Rubble Bee Recycling consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Rubble Bee Recycling declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Rubble Bee Recycling to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.



8. Rubble Bee Recycling shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or other such circumstance. Rubble Bee Recycling must show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Rubble Bee Recycling shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
  - a. The reasons for the delay or noncompliance;
  - b. The projected duration of any such delay or noncompliance;
  - c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Rubble Bee Recycling. Notwithstanding the foregoing, Rubble Bee Recycling agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Rubble Bee Recycling. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Rubble Bee Recycling from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Rubble Bee Recycling voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18<sup>th</sup> day of January, 2006.

  
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Jeffery A. Steers, NVRO Regional Director  
Department of Environmental Quality

Rubble Bee Recycling Corp. voluntarily agrees to the issuance of this Order.

By:  \_\_\_\_\_

Title: Crushing Manager

Date: 12/14/06

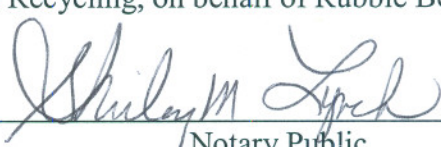
STATE OF MD  
~~Commonwealth of Virginia~~

City/County of CALVERT

The foregoing document was signed and acknowledged before me this 14<sup>th</sup> day of

December, 2006, by KEITH LARE, who is

CRUSHING MANAGER of Rubble Bee Recycling, on behalf of Rubble Bee Recycling.

  
\_\_\_\_\_  
Notary Public

My commission expires: 12/01/09